UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/C.12/1999/SR.35
22 December 1999

ENGLISH
Original: FRENCH

COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Twenty-first session

SUMMARY RECORD OF THE 35th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 18 November 1999, at 3 p.m.

Chairperson: Mrs. BONOAN-DANDAN

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The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS:

(a) REPORTS SUBMITTED BY STATES PARTIES IN ACCORDANCE WITH ARTICLES 16 AND 17 OF THE COVENANT (agenda item 6) (continued)

Second periodic report of Argentina (E/1990/6/Add.16; E/C.12/Q/ARG/1 (list of issues); written replies from the Argentine Government (document without a symbol, distributed in the meeting room in Spanish only)) (continued)

1. At the invitation of the Chairperson, the members of the Argentine delegation resumed their places at the Committee table.

2. Mrs. NASCIMBENE de DUMONT (Argentina), responding to questions left pending from the end of the previous meeting, said that rural workers employed on large plantations were usually declared, which was not often the case with workers on small family farms. Unemployed or underemployed rural populations benefited from training or job-creation programmes conducted by the Ministry of Labour, in particular the "Trabajar" (Work) programme initiated by the Federal Government in 1997, in collaboration with the provincial authorities, various non-governmental organizations (NGOs) and the World Bank.

3. The number of household workers, most of them women, had been estimated at approximately 800,000. Unfortunately, most such employees were not declared, a situation the Government was endeavouring to remedy.

4. Argentina's black population was small, and the delegation could not supply any statistics.

5. The "Joven" (Youth) programme had been devised to help unemployed youths find work, notably by affording them training, while the "Trabajar" programme was intended to assist all the unskilled unemployed persons, whatever their age.

6. The Argentine delegation would pass on to the Government Mr. Hunt's suggestion that the Minister for Economic Affairs should pay greater heed to other ministers' concerns.

7. The CHAIRPERSON invited the delegation to explain how articles 9-15 of the Covenant were enforced.

8. Mrs. NASCIMBENE de DUMONT (Argentina), replying to questions 25-29 relating to the right to social security, said that Argentina's Single Social Security System provided for retirement and industrial accident benefits, family allowance and sickness insurance. The social insurance system was funded primarily by workers' contributions (11 per cent of taxable income) and employers' payments (16 per cent of taxable wages).

9. The pensions and retirement scheme established in July 1994 combined a State-administered distribution system with a funding system managed by the private sector.

Two types of contribution were paid, regardless of the system selected: the universal basic contribution and the supplementary contribution. In addition to the normal retirement pension, there was a disability pension, a survivor's pension and an old-age pension.

10. The national sickness insurance scheme comprised three sectors: the public sector, the private sector, and the so-called welfare sector. Benefit schemes were financed primarily by employers (5 per cent of the wage bill) and workers (3 per cent of their pay) and were intended to guarantee their members access to preventive medical care and to medical treatment through a compulsory medical care insurance scheme. However, the State covered highly complex treatments such as organ transplants.

11. On question 26, she said public expenditure on social security had accounted for 24.9 per cent of public spending in 1993 and 24.5 per cent in 1998.

12. Replying to question 27, she explained that beneficiaries under the public welfare system could resume paid work in either an employee or a self-employed capacity. They were, however, obliged to contribute to the National Employment Fund.

13. In response to question 28, she said the fact that the retirement age was lower for women (60) than for men (65) constituted affirmative action on behalf of women, who could, however, work up to 65 years of age if they so wished. Act No. 23,746 of 1989 provided for payment of a monthly pension to all mothers with seven or more children, whatever their age, marital status or financial situation.

14. Referring to question 29, she pointed out that the State guaranteed the payment of benefits under the public welfare system up to the amount of budget allocations expressly committed for financing under the Budget Act; the Act determined the minimum and maximum levels of payments, which currently stood at 150 and 3,100 pesos respectively.

15. The minimum wage guaranteed by the Constitution was fixed by the National Council for Employment, Productivity and Minimum Wage, comprising representatives of employers, workers and the State. The minimum hourly wage was currently 1 peso, and the minimum monthly wage 200 pesos.

16. As to the number of divorces and separations (question 30), the percentage of the separated or divorced population had risen from 2.1 per cent in 1981 to 3.8 per cent in 1991. The forthcoming 2000 census would determine whether that trend had continued.

17. With regard to domestic violence, she pointed out that in December 1994 the National Congress had passed a law on protection against domestic violence and that a telephone hotline had been installed for its female and child victims. Information campaigns were being conducted to encourage the population to report such practices. The written replies contained detailed information and figures on the phenomenon.

18. Replying to question 32, she said that in August 1999 Argentina had submitted its second periodic report to the Committee on the Rights of the Child, furnishing detailed information on

the measures the Government had taken to combat violence against children and to assist abandoned children or children deprived of their family environment.

19. On the subject of street children (question 33), she acknowledged that the situation had deteriorated during the preceding 10 years. Whereas in 1989 educators had dealt with some 100 street children under the Street Children's Programme, the number had risen to 1,500 by 1999.

20. In reply to question 34, she emphasized that since 1985 parental authority had been exercised jointly by both parents. In cases of separation or divorce, the parent granted custody needed to obtain the explicit consent of the other parent before authorizing the child to perform certain important acts. In the event of conflict between the parents, the matter was decided by the courts.

21. On the subject of illegal adoption of children of disappeared parents (question 35), the National Commission for the Right to a Personal Identity - created in 1992 and composed of representatives of the Ministry of the Interior, of the "Plaza de Mayo" Mothers' Association, and of the Office of the Under-Secretary for Human Rights - currently had 284 cases before it. The efforts of the Office of the Under-Secretary for Human Rights had already enabled dozens of persons who had been separated from their relatives to be reunited with a parent, child or sibling.

22. The Government was battling tax evasion (question 37) on two fronts. It was intensifying fiscal controls and tax revenue recovery, while alerting citizens to the need to pay their taxes. However, much remained to be done to convince the population to discharge that duty.

23. On the subject of allocation of housing to persons with low incomes (question 38), she explained that in 1998 the Department of Housing had continued to favour the establishment of financial mechanisms of a nature likely to increase housing supply. Direct assistance was designed primarily for vulnerable groups and persons whose basic needs were unmet. The written replies contained details of the various housing assistance programmes and furnished precise figures. National Housing Fund (FONAVI) resources, totalling US$ 899,887,548, had been transferred in 1998 to the provincial housing departments of the provinces and the municipality of Buenos Aires to be allocated to home construction and refurbishment and public infrastructure schemes or financing of individual loans. The many housing schemes included the programme for improving working-class districts with a view to enhancing the living conditions of the urban population whose basic needs were unmet; to providing the necessary sanitation networks; to regularizing families' legal situation by granting the required land titles; and to resolving or attenuating environmental problems.

24. As to the rights of tenants (question 39), it should be said that since 1976 the regulatory law had been Act No. 21,342 on urban rentals, which had led to the progressive deregulation of leases. The property market was currently unrestricted and functioned according to the law of supply and demand. Developments in access to ownership had in the previous two or three years resulted in a decline in demand for rented accommodation and, consequently, a drop in rents.

25. Concerning the number of persons who were homeless or living in inadequate housing conditions (question 40), the written replies contained a detailed table with accurate figures on the distribution of housing among inhabitants and households. There were a variety of structures providing assistance with accommodation for older persons (question 41). The National Institute of Social Services Institute for Retirees and Pensioners helped its more disadvantaged members with accommodation on favourable terms or with financial assistance towards housing. Even so, there was no denying that the problem of housing for older persons was one of grave concern and would be assigned particular importance by the new Government.

26. Broaching the subject of article 12 relating to the right to health (question 42), she said that annex 7 to the written replies contained detailed information on the health expenditure of the national public sector and provincial communities, and showed how that spending had evolved over the years. Turning to question 43, she said that health-care coverage was provided in two ways: 67 per cent of the population were covered by the benefits and mutual insurance sector, which implemented the compulsory health-care programme (PMO), while the remaining 33 per cent were covered by the public system. Actions were aimed primarily at improving the quality of services. For instance, hospital and health-centre capacity had increased.

27. On the topic of "deregulation of the welfare system" (question 44), the Government had installed a free-choice and care-package system. A welfare system conversion programme had been set up to help social institutions restructure inacceptable conditions. Some 90 welfare schemes, with 7,653,945 beneficiaries, had joined the programme. Many welfare schemes had already adopted conversion plans and it was to be hoped that others, especially smaller ones, would also undertake reform in order to face up to market realities.

28. Concerning health policy (question 45), she said that details of measures taken could be found in the written replies. Emphasis had been placed on family, mother and child care. With the year 2000 only weeks away, it could be said that the Government had achieved, if not exceeded, most of its targets. For example, the infant mortality rate had fallen from 25,6 per 1,000 live births in 1990 to 18.8 in 1997. Special services were available to disabled children. The State was implementing free vaccination programmes, and anti-polio and tetanus inoculation coverage in particular had been extended considerably; the BCG vaccine was compulsory at birth; and the hepatitis B vaccine would be supplied free of charge as of 2000.

29. On the subject of reproductive health services, family planning and gynaecological assistance (question 46), she referred to the notion of responsible reproduction, which hinged on the right of individuals to free choice in matters of reproduction, and on the duty of the State to assist them to that end. Responsible reproduction had three main aims: to encourage people aged 20-35 to have children; to favour a minimum two-year interval between pregnancies; and to prevent unwanted pregnancies. Programmes for responsible reproduction had been implemented throughout the country and were beginning to bear fruit. In 50 years the country's birth rate had fallen from 25.4 per 1,000 to 19.2 per 1,000 (with huge regional differences nonetheless) and the synoptic fertility index had dropped from 3.15 to 2.65 children per woman. A policy of responsible reproduction was also one answer to question 47 concerning teenage pregnancy and the large number of single mothers and abortions. Various measures had been taken to curb the alarming number of teenage pregnancies, including the adoption of a comprehensive teenager health-care plan.

30. Turning to the maternal mortality and child malnutrition rates (question 48), she referred Committee members to the written replies, in particular to annex 8 which contained a wealth of statistics for the period 1990-1997.

31. A great deal still remained to be done in the area of care for older persons (question 49). A large proportion of that care was currently provided through the Comprehensive Medical Assistance Plan (PAMI) of the National Institute of Social Services Institute for Retirees and Pensioners, whose considerable budget funded the care of nearly 4 million persons, or 11 per cent of the Argentine population. Some information concerning mental health care (question 50), could be found in the written replies, but the authorities had no precise data on that type of care in the provinces.

32. On question 51, she replied that the authorities' anti-AIDS action was regulated by the National AIDS Act. In statistical terms, 38.4 per cent of declared AIDS cases had been diagnosed in the course of the previous two and a half years, and Buenos Aires province accounted for 42 per cent of cases.

33. The CHAIRPERSON invited members to put their questions concerning articles 9-12 of the Covenant to the delegation.

34. Mr. GRISSA said he wished to know more about the authorities' action to deal with the problem of street children, stressing that prevention of the phenomenon called for discovery of its roots and causes. He also noted that prostitution in Argentina, as in many other Latin American countries, was widespread in border areas. That state of affairs was often linked to drug trafficking or sex tourism. It would be interesting to know more about that situation. Lastly, one could not but be disturbed by the number of abortion-related deaths and the high proportion of back-street abortions, a situation doubtless due in large measure to the fact that abortion was illegal in Argentina. It was certainly surprising that a modern State like Argentina should not review its position on abortion. Many countries with a Catholic majority had legalized abortion. Was there a movement in favour of abortion in the country?

35. Mr. RIEDEL remarked that, interesting as the replies had been, they still did not enable the Committee to determine whether the Argentine Government was discharging the three legal obligations imposed on it by the Covenant: obligation to respect, obligation to protect and obligation to fulfil. Most of the replies concerned the obligation to fulfil. For example, regarding article 11, the answers to question 40 concerning homeless or inadequately housed persons had not informed the Committee whether the Argentine State was discharging its Covenant obligations.

36. Turning to article 12, he asked what the State was doing to protect the rights of persons in the context of the deregulation of the welfare system. It had been said in reply to question 43 that the hospital situation in the capital had improved; but what was it like in the poorer districts? On the subject of reproduction, family planning and gynaecological assistance, what educational and support measures was the State taking to fulfil its obligations under the Covenant?

37. The notion of responsible reproduction had been advanced in connection with the large number of teenage pregnancies. That notion had political overtones, and it would be interesting

for it to be further explained in the light of the legal obligations set forth in the Covenant. Moreover, the plethora of nutrition and health statistics and information supplied did not indicate whether the State was fulfilling its obligations. Did they represent an improvement?

38. In conclusion, he referred to a report from the International Federation of Human Rights Leagues (IFHR), in which mention had been made of two distressing problems. First, treatment conditions were apparently unacceptable in a number of public psychiatric establishments, which admitted many more patients than was recommended by the World Health Organization. Second, children and teenagers living near a petroleum plant in Neuquén province had been poisoned by contaminated water, and a court action had been brought on their behalf. The province's lower courts had ruled in the plaintiffs' favour and had ordered the Administration to take a series of measures to remedy the situation. That ruling had been upheld on appeal, but the Administration had allegedly never taken the measures prescribed by the courts. Was the delegation familiar with the IFHR report? And could it shed any light on the matter?

39. Mr. TEXIER observed that in Argentina, as in many other countries, most industrial accidents occurred in the construction sector. That situation was attributable to the hazards involved in the jobs performed in that sector, to the inadequacy of protection measures, to the precariousness of work contracts, and to the meagre hourly wages, all of which encouraged workers to agree to work long hours in whatever conditions. The State party should combat those risk factors in order to prevent accidents in the workplace in the construction sector. On the issue of illegal adoptions, tribute should be paid to the grandmothers of the Plaza de Mayo, without whom the National Commission on the Right to a Personal Identity would not have seen the light of day, and thanks to whom Argentina was currently an example to other countries.

40. Turning to article 11, he pointed out that, according to the 1991 national census, 33 per cent of the country's population lived in inadequate housing conditions - 31.7 per cent lacked access to drinking water, 64 per cent had no access to waste drainage, and 18 per cent lacked legal home-ownership security. He asked whether the Housing Under-Secretariat's plan currently being executed included a loan policy designed to assist the poorest segments of society. With the housing shortage more intense in Buenos Aires than elsewhere, the city was prone to "squats" and forced evictions. He would like to know the numbers of persons involved, as well as the alternative solutions proposed. He emphasized the need to endow ownership with legal status, and asked whether there were plans to legalize ownership after a given period. Lastly, on the right to health, he pointed out that while infant mortality was falling steadily, the decline had slowed in 1995. What steps did the Government have in mind to prevent the avoidable deaths referred to in the report? For instance, did it intend to launch a campaign in favour of access to primary health care?

41. Mrs. JIMÉNEZ BUTRAGUEÑO noted from paragraph 151 of the report that insufficient funds could be cited to justify suspension of pension payments or legal challenges to actions taken by the National Social Security Administration. She also noted that the pensions system contained both pay-as-you-go and funding elements, and asked whether the transition to that dual system did not undermine the rights of certain retirees. Were there any former workers who were not receiving their pensions and, if so, how many? The State party had furnished many statistics on the contributions paid to provide protection against various risks (retirement, disability, death, etc.), but it was difficult for the Committee to work out the amount of an

average worker's total contribution. That was a very important piece of information, because if the amount was too high it could favour the informal labour market. By the same token, corruption discouraged the population from paying taxes, so that fighting corruption was also a useful means of combating tax fraud.

42. She also expressed concern at the inadequate mechanisms for protecting women against violence, and the slowness of justice in dealing with that type of offence. She also invited the State party to facilitate access by disabled persons to transport, universities, theatres and all public places. Regarding the right to health, she had been disturbed to read in paragraphs 222 and 223 of the report about the under-registration of maternal mortality and asked whether the problem of lack of indicators had been resolved since the drafting of the report. She also asked whether study of the nutritional health of mothers and children had improved and whether measures had been taken to combat malnutrition. In conclusion, she welcomed the cultural activities provided for older persons, but was dismayed by the corruption detected within the Comprehensive Medical Assistance Plan (PAMI) and asked whether there were moves to reform that scheme. She would welcome further information on the question of older persons.

43. Mr. CEAUSU noted with satisfaction that the State party was implementing a demographic policy described as one of responsible reproduction, but he wondered whether that notion did not clash with the non-contributory benefits system for mothers with seven or more children, which undoubtedly encouraged families with six children to have a seventh.

44. Mr. SADI inquired about the effects of the Amnesty Act on children of disappeared parents. By the same token, and with the Pinochet affair in mind, he asked what Argentina's official position was in respect of the arrest in another country of Argentine nationals to whom the amnesty applied. He also asked whether the State party, like most other Latin American countries, experienced the problem of trafficking in children's organs. Lastly, he requested statistics on the evolution of cancer and cardiovascular diseases.

45. Mrs. NASCIMBENE de DUMONT (Argentina) expressed surprise at the criticisms voiced. The Committee's concluding observations following presentation of the initial report, including those on form, had been acted upon in the preparation of the second periodic report. Any lacunae in the statistics meant that they had not been available. Even though specific programmes might not have been sufficiently effective, it could not be said that they had not been carried out

46. The CHAIRPERSON assured the delegation that members' comments were meant to be constructive. In view of the time constraints, she proposed moving on to articles 13 et seq. of the Covenant, concentrating on the main topics.

47. Mrs. NASCIMBENE de DUMONT (Argentina) said that primary education had been compulsory and free in Argentina since 1980, the year in which the Joint Education Act had entered into force. She referred Committee members to pages 134 and 135 of the written replies for drop-out rates across the national territory and updated teachers' salaries, and to page 138 for progress made with school enrolment of street children. Human rights education was compulsory in general education, even in teacher-training college syllabuses. No data were available on measures to facilitate older persons' access to education.

48. Measures designed to facilitate cultural life, including programmes for disadvantaged groups, and practical measures for promoting disabled persons' access to cultural venues had been introduced and were set out in detail on pages 139-142 of the written replies. The replies also attested to the special efforts made both by the Federal State and the provinicial institutions to promote all forms of culture among young people. Those abundant measures were coordinated by public bodies and NGOs. A great many private initiatives were subsidized by the State, and the Ministry of Culture had launched cultural activities jointly with associations of older persons.

49. In conclusion, the Congress had passed a number of copyright laws, notably Act No. 24,870, which extended the period of legal protection to 70 years; Act No. 25,006, which extended protection of cinematographic works to 50 years; and Act No. 25,036, which extended the protection afforded by the Intellectual Property Act to computer programmes. The Department of Cultural Legislation was also engaged in preparing a "cultural directory", compiling the various national texts on cultural matters.

50. Mr. WIMER ZAMBRANO noted that Argentina's Immigration Act, especially article 102, contained provisions that apparently contravened article 13 of the Covenant. The fact that school enrolment was open only to children of foreigners holding permanent residence permits in itself violated the Covenant obligation on States parties "to recognize the right of everyone to education". Given the social consequences that such a measure could eventually have on the children of migrant workers, it raised a serious problem - one, indeed, which confronted all the countries of Latin America, especially the Dominican Republic and Haiti.

51. He asked whether the provincial Governments had sole responsibility for publications in indigenous languages or whether the Federal Government played any role in that respect. Was there a Federal law that provided for the obligation to ensure that books and textbooks were produced in indigenous languages?

52. Mr. MARCHÁN ROMERO considered highly interesting the Argentine Government's programme for indigenous inhabitants' access to, and integration into, Argentine culture. Nonetheless, in most cases, particularly in his own country, Ecuador, minorities were less desirous of being integrated into the so-called dominant culture than of seeing their own culture protected and preserved. He would therefore like to know whether there were any subsidy schemes to support the publication and dissemination of literary works in the vernacular languages, or a programme for integrating indigenous culture into the majority Argentine culture.

53. Mr. TEXIER observed that the school drop-out table (p. 134 of Argentina's written replies) showed that the provinces in which the phenomenon was most serious by far were Formosa, Corrientes, Misiones and Santiago del Estero, as was the case for repeating and truancy. More or less the same was true of Buenos Aires' poorest districts, owing, among other things, to poverty. While solutions to the problem were certainly complicated by decentralization, he wished to know whether any measures were envisaged for redressing the situation and assigning priority to the provinces and the poorest districts.

54. Mr. ANTANOVICH professed himself impressed by Argentina's policy for the promotion of culture and the subisidies allocated to that end. Regarding participation in cultural life, he asked whether publications in indigenous languages were partially funded by the authorities and whether there were any institutions mandated to protect the cultural identity of minorities. If so, were the programmes national or provincial in scale?

55. Mr. GRISSA, referring to the prohibition of abortion in Argentina, wondered about the relationship between Church and State, and more particularly what influence the Roman Catholic Church exerted on the Government.

56. Mrs. NASCIMBENE de DUMONT (Argentina) explained that the problem of street children was an urban phenomenon peculiar to the Buenos Aires conurbation. A programme for street children had been initiated in 1998 and mainly offered them shelter at the outset. The phenomenon was closely linked to poverty and the break-up of families. At its inception, the programme took care of some 100 children, but the number of beneficiaries had risen to 1,500. The problem had escalated with entire families currently living on the streets, necessitating fresh solutions. In order to eradicate that scourge in the longer term, the Government was placing emphasis on their re-enrolment and on poverty-eradication expedients.

57. Turning to prostitution in border areas and the assessment of its impact on the HIV/AIDS epidemic, the authorities had since 1994 been compiling pertinent data broken down by sex. Argentina was cooperating closely with the United Nations Programme on HIV/AIDS and with Germany.

58. Where abortion was concerned, the authorities' objective was to reduce the rate of maternal mortality from illegal abortions. They had launched an awareness campaign to impress upon the population that everyone was in control of his or her destiny and had the right to decide how many children he or she wanted. That being said, Argentine legislation stipulated that a person's right began with conception, and no amendment of the Civil Code to legalize abortion was contemplated. Under the 1953 Constitution, the Federal Government supported the Roman Catholic and Apostolic Church and most of the population were Roman Catholics. However, there was total religious freedom in Argentina.

59. Members of the Military Junta suspected of kidnapping children during the era of the dictatorship in 1976-1983, were currently being prosecuted.

60. Concerning the measures taken on behalf of the disabled, a Disability Act had been promulgated in 1997, and a commission had begun to study concrete measures that could be taken to adapt rail and road transport to the special needs of the disabled.

61. Mr. VARELA (Argentina) explained that available statistics revealed that cardiovascular diseases had been the prime cause of death in 1997, accounting for 34 per cent of the total.

The meeting rose at 6 p.m.